

REMARKS/ARGUMENTS

Claims 1-39 are pending in the application. The Examiner has rejected claims 1-39. Applicant respectfully requests reconsideration of pending claims 1-39.

The Examiner has rejected claims 1-3, 5, 7, 9, 10, 16, 18-24, 26-28, 33, 35, and 36 under 35 U.S.C. § 102(b) as allegedly being anticipated by Bayer et al. (U.S. Patent No. 6,311,190). Applicant respectfully disagrees.

As to claim 1, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 1. As one example, Applicant submits the cited portions of the cited reference fail to anticipate "for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter." While the Examiner states, in the Examiner's "Response to Arguments," "The system taught by Bayer et al. is used simultaneously to conduct surveys, and to register voters to participate in said surveys." Applicant respectfully disagrees. Applicant does not see the term "simultaneously" used the cited portions of the cited reference. Moreover, Applicant does not see claim 1 as reciting as a limitation what the Examiner alleges the cited reference teaches.

Applicant notes the Examiner cites portions of columns 14 and 28 which refer to "network server 12." Applicant notes col. 26, lines 34-36, state "Referring to FIGS. 21-25, a flow chart of the operation and programming of the network server 12 for the registration site when connector to one of the registrant's computer 18, i.e., a network client computer, is shown." Furthermore, as cited by the Examiner, Applicant notes col. 18, lines 55-57, states, "The registration campaign at the registration site operate independently of voting campaigns in system 10...." Thus, Applicant submits the cited portions of the cited reference not only fail to disclose, but also teach away from the claimed invention as set forth in claim 1. Therefore, Applicant submits claim 1 is in condition for allowance.

As to claims 2 and 19, Applicant presents arguments for the allowability of the claims from which claims 2 and 19 depend. Therefore, Applicant submits claims 2 and 19 are also in condition for allowance.

As to claims 3 and 20, Applicant presents arguments for the allowability of the claims from which claims 3 and 20 depend. Therefore, Applicant submits claims 3 and 20 are also in condition for allowance.

As to claims 5 and 24, Applicant submits the cited portion of the cited reference fails to disclose the claimed invention as set forth in either claim 5 or claim 24. For example, Applicant submits the cited portion of the cited reference fails to disclose “sending a consent email message to each potential voter of a plurality of potential voters, wherein the consent email message includes a hyperlink to a consent website,” for which the Examiner cites col. 13, lines 56-58, or “receiving consent information corresponding to at least a portion of the plurality of potential voters based on responses provided by the at least a portion of the plurality of potential voters via the consent website,” for which the Examiner cites col. 19, lines 24-30. In citing col. 13, lines 56-58, the Examiner refers to “the voting website.” However, in citing col. 19, lines 24-30, the Examiner refers to “the consent (registration campaign) website.” Applicant notes col. 18, lines 55-57, states, “The registration campaign at the registration site operate independently of voting campaigns in system 10....” Accordingly, Applicant submits the cited portions of the cited reference teach away from “the voting website” and “the consent (registration campaign) website” disclosing a “consent website” in accordance with the subject matter of claims 5 and 24, as the apparently asserted by the Examiner. Thus, Applicant submits the cited portions of the cited reference not only fail to disclose, but also teach away from the claimed invention as set forth in claims 5 and 24. Therefore, Applicant submits claims 5 and 24 are in condition for allowance.

As to claims 7 and 26, Applicant presents arguments for the allowability of the claims from which claims 7 and 26 depend. Therefore, Applicant submits claims 7 and 26 are also in condition for allowance.

As to claims 9 and 27, Applicant presents arguments for the allowability of the claims from which claims 9 and 27 depend. Therefore, Applicant submits claims 9 and 27 are also in condition for allowance.

As to claim 10, Applicant presents arguments for the allowability of the claim from which claim 10 depends. Therefore, Applicant submits claim 10 is also in condition for allowance.

As to claims 16 and 33, Applicant submits the cited portions of the cited reference fail to anticipate the claimed invention as set forth in either claim 16 or claim 33. The Examiner states,

“providing a consent notification (sending an email message) to a potential voter of a plurality of potential voters, wherein the consent notification notifies the potential voter of the consent website (solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign; embedded hyperlink to a particular URL of an associated registration campaign may be provided) [Column 12, lines 22-24, Column 18, lines 45-55, lines 58-60].” The Examiner thus apparently attempts to analogize “the URL of a voting campaign” to “the consent website.” The Examiner then states, “receiving consent (registration) information corresponding to at least a portion of the plurality of potential voters based on responses (user name, password and email address) provided by the at least a portion of the plurality of potential voters via the content [sic] (registration) website [Column 19, lines 24-30].” The Examiner thus apparently attempts to analogize “a registration campaign” to “the consent website.” However, Applicant notes col. 18, lines 55-57, states, “The registration campaign at the registration site operate independently of voting campaigns in system 10....” Accordingly, Applicant submits the cited portions of the cited reference teach away from “the URL of a voting campaign” and “a registration campaign” disclosing a “consent website,” as the apparently asserted by the Examiner. Thus, Applicant submits the cited portions of the cited reference not only fail to disclose, but also teach away from the claimed invention as set forth in claims 16 and 33. Therefore, Applicant submits claims 16 and 33 are in condition for allowance.

As to claim 18, Applicant submits the cited portion of the cited reference fails to disclose the claimed invention as set forth in claim 18. For example, Applicant submits the cited portion of the cited reference fails to disclose, “for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter.” While the Examiner cites col. 28, lines 13 and 14, particularly step 242, as disclosing such feature, Applicant notes the paragraph including the cited portion begins with “Referring to FIG. 24,....” Applicant notes col. 26, lines 34-36, state “Referring to FIGS. 21-25, a flow chart of the operation and programming of the network server 12 for the registration site when connector to one of the registrant’s computer 18, i.e., a network client computer, is shown.” Also, as cited by the Examiner, Applicant notes col. 18, lines 55-57, states, “The registration campaign at the registration site operate independently of voting campaigns in system 10....” Thus, Applicant submits the cited portions of the cited reference not only fail to disclose, but also teach away from the claimed invention as set forth in claim 18. Therefore, Applicant submits claim 18 is in condition for allowance.

As to claim 21, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 21. For example, Applicant submits the cited portions of the cited reference fail to disclose “wherein the voter database is stored in the memory.” The Examiner cites column 5, line 12, which states, “...memory 14 storing a database 15...” However, Applicant notes col. 6, lines 66 and 67, state, “Multiple records in tables of database 15 store voting information.” Applicant further notes the phrase “voting information” appears in claim 18, but claim 21 does not state, “wherein the voting information is stored in the memory,” but rather “wherein the voter database is stored in the memory.” Thus, Applicant submits the cited portions of the cited reference not only fail to anticipate but also teach away from the claimed invention as set forth in claim 21. Therefore, Applicant submits claim 21 is in condition for allowance.

As to claim 22, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 22. For example, Applicant submits the cited portions of the cited reference fail to disclose “wherein the voter database is accessed by the voting management processor over a network.” While the Examiner cites “(computer system operating in accordance with software...)” as allegedly teaching “accessed by the voting management processor” and “(network server 12 and network 20...) [Figure 1 and Column 5, lines 13-16, 25-28, 39-40, 42-44, Column 6, lines 11-17]” as allegedly teaching “over a network,” Applicant notes the Examiner has alleged “(element 14 of Figure 1)” to be “memory” with respect to base claim 22, wherein the “voting management processor” comprises “memory.” However, with respect to claim 22, the Examiner alleges “(database 15)” to be a “voter database” that “is accessed by the voting management processor over a network.” Applicant notes the cited reference states, in col. 5, line 11, “...memory 14 storing a database 15...” Applicant submits, according to the Examiner’s interpretation, it would be unnecessary for an alleged “voting management processor” allegedly comprising “memory 14,” with “...memory 14 storing a database 15...,” to access “database 15” over “network server 12 and network 20,” as, according to the Examiner’s interpretation, the alleged “voting management processor” would already comprise the alleged “voter database” internally. Moreover, Applicant can find no teaching in the cited portions of the cited reference that would allegedly disclose such functionality. Thus, Applicant submits claim 22 is in condition for allowance.

As to claim 23, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 23. For example, while the Examiner alleges “the memory stores additional (programmed) instructions” and cites col. 5, lines 42-44, which states, “The network

server 12 operates in accordance with software representing programmed instructions....," the Examiner has alleged "memory 14" to be "the memory," and Applicant submits the Examiner has not identified any portion the cited reference that would allegedly teach "software representing programmed instructions" being stored in "memory 14." Thus, Applicant submits the Examiner has fails to show the cited portions of the cited reference teaching the present invention as set forth in claim 23.

Furthermore, the Examiner states, "it is inherent that programmed instructions in executable software are stored in computer memory." While the Examiner asserts a rejection based on inherency, Applicant submits that the teachings of the cited reference fail to establish inherency in accordance with Applicant's understanding of existing law. For example, Applicant submits that the Examiner has failed to establish that the public gained the benefit of the subject matter recited in claim 23 from the teachings of the cited reference. *Schering Corp. v. Geneva Pharmaceuticals*, 339 F.3d 1373 (Fed. Cir. 2003). As another example, Applicant submits that the Examiner has failed to establish that the subject matter recited in claim 23 is present in the teachings of the cited reference. *Mentor v. Medical Device Alliance*, 244 F.3d 1365 (Fed. Cir. 2001); *Scaltech v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999). Thus, Applicant submits that the subject matter recited in claim 23 cannot be considered to be inherent in the teachings of the cited reference. Accordingly, Applicant submits the Examiner has failed to satisfy the burden of proof required for asserting a rejection based on inherency. Therefore, Applicant submits that the Examiner has not shown claim 23 to be anticipated by the cited reference. Consequently, Applicant submits claim 23 is in condition for allowance.

As to claim 28, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 28. For example, the Examiner alleges the "VoteLog table, voting information stored in database 15, which is stored in memory 14" of the cited reference discloses "the memory." The Examiner cites "[Column 6, line 66 – Column 7, line 24, Column 14, lines 36-50]" in support of such assertion. However, with respect to base claim 18, the Examiner alleged "memory 14" to be the "the memory." Applicant can find no reference to "memory 14" in col. 6, line 66 – col. 7, line 24, or col. 14, lines 36-50, of the cited reference, as cited by the Examiner, and can find no statement by the Examiner alleging "memory 14" to comprise the "VoteLog table." Thus, Applicant submits the Examiner has failed to show the cited portions of the cited reference teaching the present invention as set forth in claim 28. Therefore, Applicant submits claim 28 is in condition for allowance.

As to claim 35, Applicant submits the cited portions of the cited reference fail to disclose the claimed invention as set forth in claim 35. For example, Applicant submits the cited portions of the cited reference fail to disclose "sending voting notification email messages to the plurality of eligible voters, wherein the voting notification email messages provide access to a voting website managed by the voting server." While the Examiner cites col. 18, lines 45-60, and col. 13, lines 56-58, as allegedly disclosing such feature, Applicant can find no teaching as to network server 12 providing such feature. Thus, Applicant submits claim 35 is in condition for allowance.

As to claim 36, Applicant submits the cited portion of the cited reference fails to disclose the claimed invention as set forth in claim 36. For example, while the Examiner cites col. 18, lines 45-60, as were cited with respect to base claim 35, Applicant can find no teaching as to network server 12 "sending consent email messages to the plurality of potential voters." Thus, Applicant submits claim 36 is in condition for allowance.

The Examiner has rejected claims 4, 6, 8, 11-15, 17, 24, 25, 29-32, and 37-39 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bayer et al. Applicant respectfully disagrees.

As to claim 4, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 4. The Examiner states, "Official notice is taken that it is old and well known in the surveying/electoral arts that there are a myriad of issues in any election." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include the step of providing potential participants with a plurality of hyperlinks to the issues and candidates/choices being decided on by the survey/election in order to enable prospective voters to collect the necessary information needed to make an informed decision." MPEP § 2144.03 states, in part, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. See also *In re Grose*, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979)...; *In re Eynde*, 480 F.2d 1364, 1370, 178 USPQ 470, 474 (CCPA 1973) ('[W]e reject the notion that judicial or administrative notice may be taken of the state of the art. The facts constituting the state of the art are normally subject to the possibility of rational disagreement among reasonable men and are not amenable to the taking of such notice.')."

Applicant traverses the Examiner's attempt to base rejection of claim 4 on "Official notice." Applicant submits the teaching for which the Examiner purports to rely upon Official Notice is insufficient to render obvious the subject matter recited in claim 4. Thus, Applicant submits the Examiner's attempt to assert "Official notice" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claim 4 is in condition for allowance.

As to claims 6, 17, 25, and 34, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 6, 17, 25, and 34. The Examiner states, "...it is common knowledge that users who have registered for elections are subject to receiving relevant documentation, commonly in electronic formats." The Examiner concludes, "Therefore, the system taught by Bayer et al. meets the limitations of the claim." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 6, 17, 25, and 34 on purported "common knowledge." Applicant submits the teaching for which the Examiner purports to rely upon "common knowledge" is insufficient to render obvious the subject matter recited in claims 6, 17, 25, and 34. Thus, Applicant submits the Examiner's attempt to assert "common knowledge" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claims 6, 17, 25, and 34 are in condition for allowance.

As to claim 8, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 8. The Examiner states, "...it is old and well known in the art that either HTTPS protocol or a SSL protocol can be used to handle secure communication between a web server

and a web browser." The Examiner further states, "It is common knowledge that the HTTPS protocol typically handles credit card transactions and other sensitive data." It Examiner continues, "It is also common knowledge that the SSL protocol is designed to provide privacy between a web server and a web browser by authenticating the server (and sometimes the client) uses an algorithm to encrypt data." The Examiner also states, "It is old and well known in the art that such security measures are compatible with web browsers and are used by websites that typically transmit sensitive data." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use a secure data communication protocol for the reasons discussed above therein." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 8 on purported "common knowledge" or that which the Examiner alleges is "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon Official Notice is insufficient to render obvious the subject matter recited in claim 8. Thus, Applicant submits the Examiner's attempt to assert "Official notice" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claim 8 is in condition for allowance.

As to claims 11 and 29, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 11 and 29. The Examiner states, "...it is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the received votes and determine a winner." The Examiner further states, "Official notice is taken that it is old and well known in the voting arts that in traditional voting systems, votes are tallied at voting centers and the ballots are then sent to a central facility in case of a recount, and that, similarly, electronic voting systems also tally votes, and subsequently forward ballots to a proxy party (such as a transfer agent) for independent recounting and management of ballots to ensure that ballots are not tampered with and to confirm the voting results." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to generate and send an email message to transfer agents including voting information corresponding to eligible voters so that received votes can be tallied and verified and a winner can be

determined while ensuring that ballots are not tampered with in case of a need of a recount." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 11 and 29 on "Official notice" and that which the Examiner asserts is "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon Official Notice is insufficient to render obvious the subject matter recited in claims 11 and 29. Thus, Applicant submits the Examiner's attempt to assert "Official notice" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claims 11 and 29 are in condition for allowance.

As to claims 12 and 30, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 4. The Examiner states, "...it is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal information (social security numbers) are encrypted and transmitted through a secure connection to a network server." The Examiner concludes, "It would have been obvious to one of ordinary skill to modify the teachings of Bayer et al. by encrypting email messages in order to ensure voter privacy and to prevent tampering with election results." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 12 and 30 on what the Examiner alleges to be "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon as "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 12 and 30. Thus, Applicant submits the Examiner's attempt to assert such a basis for rejection is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claims 12 and 30 are in condition for allowance.

As to claims 13 and 31, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 13 and 31. The Examiner states, "...it is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner." The Examiner continues, "It is common knowledge that, if the transfer agent is assigned the responsibility of tallying the votes to determine the winner, then whenever voting information is received during the predetermined voting time period, it should be sent to the transfer agent for tallying." The Examiner also states, "Official Notice is taken that it is old and well known in the voting arts that invalid votes need not be sent to a transfer agent." The Examiner states, "It is old and well known in the art that any system used to conduct elections would have some means accepting votes only during the predetermined voting period, disregarding any votes received after this period and ceasing to accept additional completed voting forms." The Examiner continues, "It is old and well known in the voting arts that voters who failed to register or vote during the predetermined voting time will not have their votes tallied in determining the winner." The Examiner states, "It is common knowledge that eligible nonvoters have no "default" selections, as they did not participate in the election." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to generate and send an email message to transfer agents including voting information corresponding to votes during a predetermined time period so that valid received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 13 and 31 on "Official notice" or what the Examiner asserts is "common knowledge" or "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon Official Notice or what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 13 and 31. Thus, Applicant submits the Examiner's attempt to assert "Official notice" and rely on purported "common knowledge" and what is purportedly "well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claims 13 and 31 are in condition for allowance.

As to claims 14 and 32, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 14 and 32. The Examiner states, "means of transferring electronic data are old and well known in the art (including electronic data interchange, file transfer protocol, compact disc, floppy disk, etc.)." The Examiner continues, "It is old and well known in the art that the role of transfer agents is to tally all the votes cast for the voting issue, or simply to store results after all votes have been tallied." The Examiner states, "It is common knowledge that records of elections must be maintained to verify election results, especially in the case of recounts." The Examiner also states, "It is also common knowledge that, without a backup copy of the elections, there is the risk of losing existing data (file corruption, hard drive crashing, hacked by external entities, etc.) The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to transfer the contents of the database to the transfer agent for the reasons discussed above therein." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 14 and 32 on what the Examiner asserts is "common knowledge" or "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 14 and 32. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claims 14 and 32 are in condition for allowance.

As to claim 15, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 15. The Examiner states, "It is old and well known in the computing arts that the essential idea of an Intranet is that it uses Local Area Network (LAN) technologies to facilitate communication between people and improve the knowledge base of an organization's employees." The Examiner states, "Official Notice is taken that an internal network (such as an Intranet) would be used to deliver email messages and website access to locally networked users, and that an external network (such as the Internet) would be used to deliver email messages to

non-local, non-networked users." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include the steps of using internal networks to deliver email messages and provide website access to voters and using external networks to deliver email messages to external parties (such as a transfer agent) because the resulting invention would simultaneously ensure that outside parties would not be able to access and tamper with information (such as voting results and hyperlinks to related issues) located on the local network (Intranet) while taking advantage of built-in firewalls, and provide a means for outside parties (such as a transfer agent) to receive results and completed ballots." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 15 on what the Examiner asserts is "Official Notice" or "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 15. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claim 15 is in condition for allowance.

As to claim 37, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 14 and 32. The Examiner states, "...it is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner." The Examiner states, "Official Notice is taken that voting information corresponding to eligible voters is used in producing a voting result." The Examiner states, "Regardless of who tallies the results, it is an old and well known practice that the process would involve the step of compiling the voting information (adding received answers to information stored in the database) from the validated voters to produce the voting result [Claim 5], as taught by Bayer et al." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to send voting information to transfer agents so that received votes can be tallied and verified and determined, and a winner can be

determined, while ensuring that ballots are not tampered with in case of a recount." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 37 on what the Examiner asserts is "Official Notice" or "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claim 37. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claim 37 is in condition for allowance.

As to claim 38, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 38. The Examiner states, "...it is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal identification (social security numbers) are encrypted and transmitted through a secure connection to network server." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. by encrypting email messages in order to ensure voter privacy and to prevent tampering with election results." The Examiner further states, "It also is old and well known in the art that Intranets are secure internal networks that can include mail servers based on low cost Internet technology." The Examiner continues "It is common knowledge that transfer agents are usually independent parties not in the organization, and would therefore be prohibited from accessing the intranet to view websites or receive email, so the use of external networks would inherently be required to deliver email messages." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include Intranets to provide registered voters secure access to the voting website, where they can view relevant information and vote." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 38 on what the Examiner asserts is "common knowledge" or "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon what

the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claim 38. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claim 38 is in condition for allowance.

Furthermore, the Examiner states, ""It is common knowledge that transfer agents are usually independent parties not in the organization, and would therefore be prohibited from accessing the intranet to view websites or receive email, so the use of external networks would inherently be required to deliver email messages." While the Examiner asserts a rejection based on inherency, Applicant submits that the teachings of the cited reference fail to establish inherency in accordance with Applicant's understanding of existing law. For example, Applicant submits that the Examiner has failed to establish that the public gained the benefit of the subject matter recited in claim 38 from the teachings of the cited reference. *Schering Corp. v. Geneva Pharmaceuticals*, 339 F.3d 1373 (Fed. Cir. 2003). As another example, Applicant submits that the Examiner has failed to establish that the subject matter recited in claim 38 is present in the teachings of the cited reference. *Mentor v. Medical Device Alliance*, 244 F.3d 1365 (Fed. Cir. 2001); *Scaltech v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999). Thus, Applicant submits that the subject matter recited in claim 38 cannot be considered to be inherent in the teachings of the cited reference. Accordingly, Applicant submits the Examiner has failed to satisfy the burden of proof required for asserting a rejection based on inherency. Therefore, Applicant submits that the Examiner has not shown claim 38 to be anticipated by the cited reference. Consequently, Applicant submits claim 38 is in condition for allowance.

As to claim 39, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 14 and 32. The Examiner states, "...it is old and well known in the art that data servers are integral parts of transferring electronic information and data." The Examiner continues, "It is also old and well known in the art that the role of transfer agents in the election

process is to store tallied results, or to tally the votes and determine a winner." The Examiner states, "Official Notice is taken that voting information corresponding to eligible voters is used in producing a voting result." The Examiner also states, "Regardless of who tallies the results, it is an old and well known practice that the process would involve the step of compiling the voting information (adding received answers to information stored in a database) from the validated voters to produce the voting result [Claim 5], as taught by Bayer et al." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to send voting information to transfer agents so that received votes can be tallied and verified and determined, and a winner can be determined, while ensuring that ballots are not tampered with in case of a recount." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 14 and 32 on what the Examiner asserts is "Official Notice" or "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 14 and 32. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Thus, Applicant submits claim 39 is in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

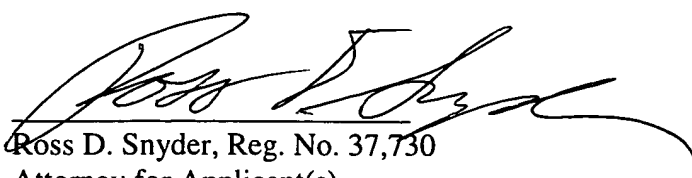
Respectfully submitted,

Application No: 09/834,834

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Date



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